

**REMARKS**

Claim 7 is canceled without prejudice, and therefore claims 6 and 8 to 14 are pending in the present application.

Applicants respectfully request reconsideration of the present application in view of the following remarks.

Applicant thanks the Examiner for acknowledging the claim for foreign priority and for indicating that all copies of the certified copies of the priority documents have been received.

With respect to paragraph two (2) of the Office Action, claim 14 was objected to because of an informality. While the objections may not be agreed with, to facilitate matters, claim 14 has been rewritten herein without prejudice. It is therefore respectfully requested that the objection to claim 14 be withdrawn.

With respect to paragraph four (4) of the Office Action, claim 13 was rejected under 35 U.S.C. § 112, second paragraph, as indefinite.

While the rejection may not be agreed with, to facilitate matters, claim 13 has been rewritten to obviate the rejection. It is therefore respectfully requested that the indefiniteness rejection be withdrawn.

With respect to paragraph eight (8) of the Office Action, claims 6 to 14 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 6,725,141 ("Roelleke").

As regards the anticipation rejections of the claim, to reject a claim under 35 U.S.C. § 102, *the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (See Scripps Clinic & Research Foundation v. Genentech, Inc., 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991) (emphasis added))*. As explained herein, it is respectfully submitted that the prior Office Action does not meet this standard, for example, as to all of the features of the claims. Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed subject matter. (*See Akzo, N.V. v. U.S.I.T.C.*, 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)).

As further regards the anticipation rejection, to the extent that the Office Action may be relying on the inherency doctrine, it is respectfully submitted that to rely on inherency, the Examiner must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics *necessarily* flows from the teachings of the applied art.” (See M.P.E.P. § 2112; emphasis in original; and see *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int’f. 1990)). Thus, the M.P.E.P. and the case law make clear that simply because a certain result or characteristic may occur in the prior art does not establish the inherency of that result or characteristic.

Claim 6 relates to a system for triggering a restraint system in a vehicle and provides for at least a first stage and a second stage of deployment of an airbag. Triggering of the second stage of deployment of the airbag is determined as a function of a combination of at least one criterion and the closing velocity, in which the at least one criterion is a time of deployment of the first stage of airbag deployment. The “Roelleke” reference does not identically disclose the feature of “triggering of the *second stage of deployment of the airbag* . . . as a function of *a combination* of the at least one criterion and the closing velocity”, in which the “at least one criterion is a time of deployment of the first stage of airbag deployment,” as provided for in the context of the claim. Even if the “Roelleke” reference might discuss closing velocity and various value ranges for different impact situations, it simply does not identically disclose (or even suggest) the feature in which it is the *second stage of deployment of the airbag* that is being triggered based on a combination of the at least one criterion and the closing velocity, as provided for in the context of the presently claimed subject matter.

The Office Action, at paragraph eleven (11), conclusorily asserts that the parameter  $V_{close}$  corresponds to the triggering of the second stage of deployment of the airbag that is determined as a function of a combination of the at least one criterion and the closing velocity. In fact, the “Roelleke” reference does not identically disclose the feature in which *triggering of the second stage of deployment of the airbag is determined as a function of a combination of the at least one criterion and the closing velocity*, as provided for in the context of the presently claimed subject matter.

The presently claimed subject matter specifically provides that *a combination* of the at least one criterion and the closing velocity determines the triggering of a *second stage of deployment of the airbag*. The present specification specifically supports this feature in paragraph [0017] (“These two parameters [signals from the acceleration sensor 42 and the precrash sensor 41] enter into deployment algorithm 33 which is computed by processor 44. The

result is the deployment time for the second airbag stage.”). No such combination, as provided for in the context of the presently claimed subject matter, is identically disclosed in the “Roelleke” reference. Therefore, the “Roelleke” reference does not identically disclose the features of “triggering of the *second stage of deployment of the airbag* . . . as a function of a *combination* of the at least one criterion and the closing velocity,” as provided for in the context of the claimed subject matter. For at least these reasons, claim 6 is allowable, as are its dependent claims.

Accordingly, claims 6 to 12 are allowable.

Claim 13 is to a “control arrangement for triggering the restraint system in a crash of the vehicle, wherein the restraint system is an airbag with at least a first stage and a second stage of deployment”, and in which “triggering of at least the first stage of deployment of the airbag is determined as a function of at least one criterion derived from the acceleration signal”, and in which “*triggering of the second stage of deployment of the airbag is determined as a function of a combination of the at least one criterion and the closing velocity*” and “at least three categories are defined as a function of the time of deployment for the first stage of airbag deployment and the closing velocity”, and in which a time of deployment for the second stage of airbag deployment is determined as a function of one of the at least three defined categories, the at least three categories include a first category corresponding to non-deployment of the first stage, a second category corresponding to deployment of the second stage, and a third category corresponding to deployment of the second stage”.

Claim 13 further provides that the “first and second categories share a common boundary as a function of a closing velocity and a deployment time of the airbag in the first stage, and wherein the second and third categories share a common boundary as a function of a closing velocity and a deployment time of the airbag in the first stage”, and that the “second stage of deployment of the airbag is not triggered if the closing velocity is below a predetermined closing velocity threshold associated with a common boundary.”

Accordingly, claim 13 is allowable because these features are simply not identically disclosed by the applied reference. For example, it is plain that the triggering of the second stage of deployment of the airbag which is determined as a function of a combination of the at least one criterion and the closing velocity is not identically disclosed in the Roelleke reference, as discussed above with respect to claim 6.

Accordingly, claim 13 is allowable for these reasons, as is its dependent claim 14.

Claims 6 to 14 are therefore allowable.

**CONCLUSION**

It is therefore respectfully submitted that claims 6 to 14 are allowable. It is therefore respectfully requested that the objections and rejections be withdrawn, since all issues raised have been addressed and obviated. An early and favorable action on the merits is therefore respectfully requested.

Respectfully submitted,  
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